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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1509 OF 2005
IN
EXECUTION APPLICATION NO.189 OF 2005
IN
ARBITRATION CASE NO.15/2002

M/s.Bharatkumar Dhaneshchandra Shilpa ... Plaintiff
V/s.
M/s.Cotex International ... Defendant
And
Manubhai Shantilal Shah ... Applicant

Mr.Niranjan Lapasia i/b Niranjan & Co. for Plaintiff
Mr.M.T. Mali for Plaintiff

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 20, 2005**

P.C.:

. This Chamber Summons has been filed for raising the attachment levied on Room No.307, Rajshila Building, 597, J.S. Shankar Seth Road, Chira Bazar, Mumbai - 400 002. This room admeasures 240 sq.ft. According to the applicant, he has purchased the flat some time in 1990 under an agreement and pursuant to that agreement, he paid Rs.94,000/- to the erstwhile owners M/s.S.V. Associates. The applicant has annexed his Income Tax returns showing that he had purchased the premises. He has also annexed the share certificate issued by Rajshila Premises Co-op. Society Limited in which he had purchased the room No.307. According to the applicant, warrant of attachment was delivered in these

premises in his absence and he has informed the Sheriff of Mumbai and the advocate for the plaintiff accordingly. The applicant contends that he is neither a partner of the defendant nor has he any connection with the partnership firm. However, his two sons are partners of the said partnership firm. There is nothing on record to indicate that Room No.307 was not the property of the applicant.

2. The applicant has produced evidence in the form of the agreement dated 31.1.1990 indicating that he has purchased the premises i.e., room No.307 admeasuring 240 sq.ft situate at Rajshila Building, 597, J.S. Shankar Seth Road, Chira Bazar, Mumbai - 400 002 on ownership basis. The earlier tenancy has been converted to ownership premises. In my view, therefore, the Chamber Summons must be allowed. The submission of the learned Advocate for the Plaintiff that only the movables are attached and not the immovables cannot be accepted since the warrant of attachment shows it is the immovable property which has been attached.

3. Therefore, the warrant of attachment on the Room No.307, Rajshila Building, 597, J.S. Shankar Seth Road, Chira Bazar, Mumbai - 400 002 is raised. Chamber Summons is made absolute in terms of prayer clause (a).